IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1125 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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O R G SYSTEMS

Versus

ORG SYSTEM STAFF ASSOCIATION

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Appearance:

Mr.Vimal Patel for MR KS NANAVATI for Petitioner No. 1

..... for Respondents No. 1,3-7

Mr.K.P. Raval, ASSISTANT GOVERNMENT PLEADER for Respondent No. 2

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CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 06/11/2001

ORAL JUDGEMENT

The present Special Civil Application is filed by the petitioner, a registered company. Short facts giving

rise to the present petition are such that respondent no.1-- Association by its letter dated 16.10.1989 made an application under Rule 66 of the Industrial Disputes (Gujarat) Rules, 1996 (hereinafter referred to as "the Rules") a copy of which is produced at page 11, Annexure 'A' to the petition. The request made was that the persons whose names are mentioned at page 2 of the said application be declared as protected workmen under the said Rule. The petitioner company replied the said application by letter dated 6.11.1989, a copy of which is produced at page 14, Annexure 'B' to the petition, wherein the company submitted that, for the year 1989- 90 the last date for submitting application was 30.9.1989 and if the application made by respondent no.1 Association is for the year 1990- 91 then the application is too early. Having received reply, respondent no.1 Association approached the Conciliation Officer. The Conciliation Officer, in turn, issued a notice to the petitioner company dated 17.11.1989, a copy of which is at Annexure 'C' to the petition. The Conciliation Officer by its judgement and order in Case No.ID 7 of 1989 declared five persons to be protected workmen for the year 1989- 90, a copy of which is produced at Annexure 'D' to the petition, which is the subject matter of this petition.

2. Learned advocate Mr.Vimal Patel for Mr. Nanavati for the petitioner company submitted that the requirement under Rule 66 of the Rules is mandatory in nature and the same could not have been waived by the Conciliation Officer. He submitted that the judgement and order of the Conciliation Officer, declaring five persons to be protected workmen, without taking into consideration the fact that the application made by the respondent Association on 16.10.1999 was delayed inasmuch as the required date before which application could be made was 30th September of the relevant year.

3. Mr.Vimal Patel, learned advocate for the petitioner company relied upon the judgement of this Court in the mater between Indian Reyon Karmachari Mandal & anr v. Conciliation Officer and Asst. Commissioner of Labour and ors., reported in 1997 (2) GLH 340, wherein according to Mr.Patel, the learned advocate for petitioner, the Court has held that the requirement prescribed under Rule 66 of the Rules is mandatory in nature and that an application is to be made before 30th September every year. Mr.Patel submitted that for the reasons recorded in the said judgement the present Special Civil Application is required to be allowed.

4. I have perused the contents of the Special Civil Application and also the judgement in the case of Indian Reyon Karmachari Mandal (supra). The Court is of the opinion that the matter is squarely covered by the judgement of this Court relied upon by Mr.Patel, learned advocate. Respondent no.1-- Association and the respondent workmen, who are respondents no.3 to 17 herein, have not chosen to remain present before this Court or file appearance.

5. In view of the aforesaid discussion, the present petition is allowed. Rule is made absolute with no order as to costs.

(Ravi R. Tripathi, J.)

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